

compliance with this Ordinance and the subscribers' satisfaction with the quality of service. A survey of subscribers should be included in this review. Results of the review should be reported to the City Council and the Franchisee.

XX

FINANCIAL AND INSURANCE PROVISIONS

A. Insurance. The Grantee shall carry insurance in such forms as is standard in the industry to protect the City and itself from and against any and all claims for injury or damages to persons or property, both real and personal, caused by the construction, erection, operation or maintenance of any structure, equipment, appliance or products authorized or used pursuant to authority of this Franchise, and the amount of such insurance against liability due to damage to property shall be not less than One Hundred Thousand Dollars (\$100,000.00) as to any one person, and Two Hundred Thousand Dollars (\$200,000.00) as to any one accident, and against liability due to injury or death of persons One Hundred Thousand Dollars (\$100,000.00), as to any one person and Three Hundred Thousand Dollars (\$300,000.00), as to any one accident.

B. Security Fund. At the time this Franchise is accepted, Grantee shall deposit into a bank account, established by City, and maintain on deposit through the term of this Franchise, the sum of One Thousand Dollars (\$1,000.00) as a common security fund for the faithful performance by it of all the provisions of this

Franchise. Interest accrued on this deposit shall be paid to Grantee on an annual basis.

C. Provision shall be made to permit City to withdraw funds from the security fund. Grantee shall not use the security fund for other purposes and shall not assign, pledge or otherwise use this security fund as security for any purpose.

D. Within ten (10) days after notice to it that any amount has been withdrawn by City from the security fund pursuant to (B) of this section, Grantee shall deposit a sum of money sufficient to restore such security fund to the required amount; provided, however, Grantee shall not be required to restore the security fund in excess of Ten Thousand Dollars (\$10,000.00).

XXI

REMEDIES

A. Liquidated Damages. Because Franchisee's failure to comply with certain provisions of this Franchise will result in injury to the City and because it will be difficult to estimate the extent of such injury, the City and Franchisee hereby agree that the following amounts represent both parties' best estimate of the damages resulting from the specified injury:

(1) Failure to provide the access channel or increased access capacity required hereunder - (\$100.00) per day.

(2) Failure to test the system or provide reports thereof as required hereunder - (\$25.00) per day.

(3) Failure to maintain the technical performance stan-

dards required - (\$100.00) per day.

Whenever City finds that Grantee has violated one (1) or more terms, conditions or provisions identified above, a written notice shall be given to Grantee informing it of such violation or liability. The written notice shall describe in reasonable detail the specific violation so as to afford Grantee an opportunity to remedy the violation. Grantee shall have twenty (20) days subsequent to receipt of the notice in which to correct the violation before City may resort to the security fund. Grantee may, within five (5) days of receipt of notice, notify City that there is a dispute as to whether a violation or failure has, in fact, occurred. Such notice by Grantee to City shall specify with particularity the matters disputed by Grantee.

(1) City shall hear Grantee's dispute at its next regularly scheduled meeting. City shall supplement the decision with written findings of fact.

(2) If after hearing the dispute the claim is upheld by City, Grantee shall have twenty (20) days from such a determination to remedy the violation or failure. At any time after that twenty (20) day period, City may draw against the security fund all penalties due it from the date of request of hearing by Grantee.

The liquidated damages provided herein shall be the exclusive monetary remedy for the named breaches. Neither the right to liquidated damages nor the payment of liquidated damages shall

bar or otherwise limit the right of the City in a proper case to:

(a) Obtain judicial enforcement of the Franchise's obligation by means of specific performance, injunctive relief, mandate or other remedies at law or in equity;

(b) Consider any violation as grounds for forfeiture and termination of the Franchise pursuant to this ordinance; or

(c) Consider any violation as grounds for nonrenewal or nonextension of the Franchise or issuance of a new franchise.

B. Forfeiture and Termination.

(1) In addition to all other rights and powers retained by the City under this Franchise Agreement, the City reserves the right to forfeit and terminate the franchise and all rights and privileges of Franchisee in the event of a substantial breach of its terms and conditions. A substantial breach by Franchisee shall include, but shall not be limited to, the following:

(a) An uncured violation of any material provision of this Franchise Agreement or any material rule, order, regulation or determination of the City made pursuant thereto;

(b) An attempt to evade any material provision of the Franchise or practice of any fraud or deceit upon the cable communications system customers and subscribers or upon the City;

(c) Failure to begin or substantially complete system construction or system extension as set forth in this

Franchise Agreement;

(d) Failure to restore service after ten (10) consecutive days of interrupted service; except when approval of such interruption is obtained from the City or is due to a Force majeure;

(e) Material misrepresentation of facts in the application or during the negotiations relating to this Franchise;

(f) Failure to provide surety and indemnity as required by the Franchise Ordinance.

(2) None of the foregoing shall constitute a major breach if a violation occurs which is without fault of Franchisee or occurs as a result of a Force majeure.

(3) The City shall make a written demand by certified mail that Franchisee comply with any such provision, order or determination under or pursuant to the Franchise. If the violation by Franchisee continued for a period of thirty (30) days following such written demand without written proof that the corrective action has been taken or is being actively and expeditiously pursued, the City may consider terminating the Franchise; provided, however, a written notice thereof shall be given to Franchisee at least fifteen (15) days in advance and Franchisee must be given an opportunity to appear before the City Council to present its arguments.

(4) Should the City determine, following the public hearing, that the violation by Franchisee was the fault of

Franchisee and not a Force majeure, the City may, by resolution, declare that the Franchise be forfeited and terminated; provided, however, the City may, in its discretion, provide an opportunity for Franchisee to remedy the violation and come into compliance with the Franchise so as to avoid termination.

C. Foreclosure. Upon the foreclosure or other judicial sale of all or a substantial part of the cable communications system facilities or upon the occasion of additional events which effectively cause termination of the system's operation. Franchisee shall notify the City of such fact and such notification or the occurrence of such terminating event shall be treated as a notification that a change in control of the Franchise has taken place.

D. Receivership. The City shall have the right to cancel this Franchise one hundred twenty (120) days after the appointment of a receiver or trustee to take over and conduct the business of Franchisee, whether in receivership, reorganization, bankruptcy or other action or proceeding, unless such receivership or trusteeship shall have been vacated prior to the expiration of said one hundred twenty (120) days or unless:

(1) Within one hundred twenty (120) days after the election or appointment, such receiver or trustee shall have fully complied with all of the provisions of the Franchise and remedied any defaults thereunder; and

(2) Within one hundred twenty (120) days, such receiver

or trustee shall have executed an agreement duly approved by the court having jurisdiction whereby such receiver or trustee assumes and agrees to be bound by each and every provisions of this Franchise Agreement.

E. Removal of Cable Communications System. Subject to federal and state law, at the expiration of the renewed term for which this Franchise has been granted, or upon its termination as provided herein, Franchisee shall forthwith, upon notice by the City, remove at its own expense all designated portions of the cable communications system from all streets and public ways within the City and shall restore said streets and public ways to their former condition; provided, however, Franchisee shall have the right to sell its physical plant to a subsequent franchisee, subject to City approval of the subsequent Franchisee in which case said plant need not be removed. If Franchisee fails to remove its facility upon request, the City may perform the work at Franchisee's expense.

XXII

COOPERATION

The parties recognize that it is in their mutual best interests for the cable communications system to be operated as efficiently as possible and for the rebuilding of the system to occur in accordance with the requirements and schedule set forth in this Agreement. To achieve this, parties agree to cooperate with each other in accordance with the terms and provisions of

this Franchise Agreement. Should either party believe that the other is not acting timely or reasonably within the confines of applicable regulations and procedures in responding to a request for action, that party shall notify the agents designated for that purpose by the other. The agent will use its best efforts to facilitate the particular action requested.

XXIII

WAIVER

The failure of the City at any time to require performance by Franchisee of any provision hereof shall in no way affect the right of the City hereafter to enforce the same. Nor shall the waiver by the City of any breach of any provision hereof be taken or held to be a waiver of any succeeding breach of such provision, or as a waiver of the provision itself.

XXIV

CUMULATIVE PROVISION

The rights and remedies reserved to the City by this Franchise Agreement are cumulative and shall be in addition to and not in derogation of any other rights or remedies which the City may have with respect to the subject matter of this Franchise Agreement and a waiver thereof at any time shall have no effect on the enforcement of such rights or remedies at a future time.

XXV

COMPLIANCE WITH FEDERAL, STATE AND LOCAL LAWS

Franchisee, its contractors, employees and agents, shall be reasonably familiar with all Federal, State, local and municipal laws, ordinances, rules and regulations which in any manner substantially affect those engaged or employed in the work or the materials or equipment used in or upon the work, or in any way affect the work, and no plea of misunderstanding will be considered upon account of the ignorance thereof. If Franchisee shall discover any provision in the plans, specifications or contract document which are contrary to or inconsistent with any such law, ordinance, rule or regulation, Franchisee shall promptly report it to the City in writing. Franchisee, its contractors, employees and agents shall comply with all applicable Federal, State and local laws, rules and regulations issued pursuant thereto. Franchisee and the City have carefully reviewed this Franchise Agreement and believe that all provisions thereof are in full compliance with all State and Federal statutory requirements in effect on the date of execution, including the Cable Communications Policy Act of 1984.

XXVI

NOTICES

All notices from Franchisee to the City pursuant to this Agreement shall be sent to an address to be designated by the City. Franchisee shall maintain within the City, through the term of the Franchise, a local office and telephone number for the conduct of matters related to the Franchise. All notices to

Franchisee shall be sent to that address.

XXVII

CAPTIONS

Captions to sections throughout this Franchise Agreement are solely to facilitate the reading and reference to the sections and provisions of the Agreement. Such captions shall not affect the meaning of interpretation of the Agreement.

XXVIII

COMPANY TO HOLD CITY HARMLESS

Franchisee shall indemnify, defend and hold harmless the City and its officials, boards, commissions, agents and employees free and harmless for any loss, expense or damage to person or property arising out of or resulting from any provision or requirement of the Franchise or exercising its rights or performing its duties under this Franchise. In order for City to assert its rights to be indemnified and held harmless, City must:

(1) Promptly notify Grantee of any claim or legal proceeding which gives rise to such right;

(2) Afford Grantee the opportunity to participate in and fully control any compromise, settlement or other resolution or disposition of such claim or proceeding; and

(3) Fully cooperate with the reasonable requests of Grantee, at Grantee's expense, in its participation in, and control, compromise, settlement or resolution or other disposition of such claim or proceeding.

XXIX

FORCE MAJEURE

Both parties' obligations to perform any services or complete any installation by any specific date (whether such date is specified herein or calculable now or hereafter pursuant to the terms hereof) shall, with respect to each such obligation, be deferred by the amount of time that the other party deems reasonable under the circumstances for the performance of such service or completion of such installation when delayed by "force majeure." In each such instance, it shall be the burden of the party seeking a delay of its obligations to perform to prove to the reasonable satisfaction of the other party of the reasonableness of the delay.

XXX

TIME IS OF THE ESSENCE

Whenever this Franchise Agreement sets forth any time for any act to be performed by either of the parties, such time shall be deemed to be of the essence of this Agreement.

XXXI

SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the

remaining portions.

PASSED AND ADOPTED THIS 8th day of July,
1986.

ATTEST:

Shade H. Schnachy
City Clerk

Alan P. Arnold
Mayor

First Reading July 8th 1986

Final Reading July 8th 1986

EXHIBIT 2



May 2, 1997

Mr. Curtis Snyder
City of Rice Lake - Administrator
11 E Marshall St.
Rice Lake WI 54868

Dear Mr. Snyder:

The purpose of this letter is to make an official request to provide cable television service to residents of the City of Rice Lake. Chibardun Telephone Cooperative, Inc. (CTC) has met with the Rice Lake Cable Commission 3 times over the past 3 weeks to make this same request. At the April 29th meeting the Commission voted to turn the matter over to the City Council and advised us to write to the City Administrator or the Chairman of the Cable Commission with an official request. We decided to write to you and to send a copy to the Chairman. We were also advised to state our requests and suggestions.

CTC, through a subsidiary, will begin construction of a fiber optic cable network to provide telephone service within the City of Rice Lake beginning in June of this year. It is CTC's Plan to deploy an advanced Cable TV system with the construction of the telephone facilities. Deployment, or not, of the cable TV facilities depends entirely on the terms and conditions of the Rice Lake Cable TV Franchise Ordinance. Section 9-4-8 of the current Ordinance requires service to all areas of the City. Since cable TV service would only be available from the new facilities and CTC's construction is expected to take approximately three years, service to 100% of the City would not occur for three years. Due to the realities associated with construction, CTC would not be able to comply with Section 9-4-8 of the Ordinance and therefore respectfully requests a change that would allow for a construction time table for a new entrant. The change could be structured as follows:

Sec. 9-4-8 Service Area

- (a) Within three (3) years from the date of service to the first customer, the Franchisee must make cable television service available to all areas of the city with a density of at least forty (40) homes per Cable Mile. Franchisee would make service available to 33% of the qualifying homes (40 per Cable Mile) at the end of year one, 66% at the end of year two and 100% at the end of year three. Thereafter, the Franchisee must extend service according to Subsections (b), (c) and (d) below.

- (b) (existing subsections a, b, c, would be re-labeled b, c, d)

This is only suggested language and should be taken as such.

We would also respectfully ask that the requirement for a local office within the City Limits, in Section 9-4-26 Notices, be amended to read, "Franchisee shall maintain, through the term of the Franchise, a local office and telephone number for the conduct of matters related to the Franchise". CTC currently has a new office in Cameron, approximately 3 miles from the city limits of Rice Lake, and would propose that Franchise matters be conducted there.

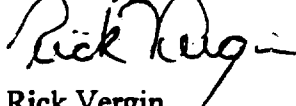
In exchange for removing the requirement for a local office within the City Limits, CTC would offer that the "Homes per Cable Mile" requirement be changed from 40 to 20. I understand that this has been a controversial topic in the past and would give the City Council something in exchange for the "City Limits" language and would benefit those customers not currently served by the local cable provider.

Chibardun Telephone would very much like to provide cable TV to the residents of Rice Lake, but we are facing several deadlines. The cable to supply TV signals must be placed in the ground at the same time as the telephone cable and must be ordered before June 1, 1997. The economics of burying cable TV and telephone together is the major reason cable competition is possible. If CTC decides not to bury the TV cable (no decision or indication by June 1st), the opportunity for competition in the cable TV market in Rice Lake could be gone forever. I feel that this would be a loss to Rice Lake and its citizens. We realize that this puts the City on the fast track, but we have been trying to resolve these issues with the Cable Commission for over three weeks. I am also aware that the incumbent cable provider has been threatening legal action and that the City must consider all possibilities. However, please consider that Federal law (Section 621 [47 USC Section 541] (a)(4) enclosed) and the FCC have several references to exclusions for new entrants.

Chibardun Telephone looks forward to working with you, the City Council and the citizens of Rice Lake. We are willing to be present at City Council meetings or other functions if needed. Please advise me as to what the next step should be.

If you have any questions please call me at 458-2116.

Sincerely,



Rick Vergin

General Manager/Executive Vice President
Chibardun Telephone Cooperative, Inc.

CC Mr. Jim Drost

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sale.

Historical Note

Section added by P.L. 102-385, the Cable Television Consumer Protection and Competition Act of 1992, approved October 5, 1992, 106 Stat 1460, §12.

Section 617 [47 USC Section 537]. Sales of Cable Systems

A franchising authority shall, if the franchise requires franchising authority approval of a sale or transfer, have 120 days to act upon any request for approval of such sale or transfer that contains or is accompanied by such information as is required in accordance with Commission regulations and by the franchising authority. If the franchising authority fails to render a final decision on the request within 120 days, such request shall be deemed granted unless the requesting party and the franchising authority agree to an extension of time.

Historical Note

Section added by P.L. 102-385, the Cable Television Consumer Protection and Competition Act of 1992, approved October 5, 1992, 106 Stat 1460, §13.

Section revised by P.L. 104-104, approved February 8, 1996, 110 Stat 56, §301.

Part III - Franchising and Regulation

Section 621 [47 USC Section 541]. General Franchise Requirements

(a)(1) A franchising authority may award, in accordance with the provisions of this title, one or more franchises within its jurisdiction; except that a franchising authority may not grant an exclusive franchise and may not unreasonably refuse to award an additional competitive franchise. Any applicant whose application for a second franchise has been denied by a final decision of the franchising authority may appeal such final decision pursuant to the provisions of Section 635 for failure to comply with this subsection.

(2) Any franchise shall be construed to authorize the construction of a cable system over public rights-of-way, and through easements, which are within the area to be served by the cable system and which have been dedicated for compatible uses, except that in using such easements the cable operator shall ensure --

(A) that the safety, functioning, and appearance of the property and the convenience and safety of other persons not be adversely affected by the installation or construction of facilities necessary for a cable system;

(B) that the cost of the installation, construction, operation, or removal of such facilities be borne by the cable operator or subscriber, or a combination of both; and

(C) that the owner of the property be justly compensated by the cable operator for any damages caused by the installation, construction, operation, or removal of such facilities by the cable operator.

(3) In awarding a franchise or franchises, a franchising authority shall assure that

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access to cable service is not denied to any group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides.

(4) In awarding a franchise, the franchising authority --

(A) shall allow the applicant's cable system a reasonable period of time to become capable of providing cable service to all households in the franchise area;

(B) may require adequate assurance that the cable operator will provide adequate public, educational, and governmental access channel capability, facilities, or financial support; and

(C) may require adequate assurance that the cable operator has the financial, technical, or legal qualifications to provide cable service.

(b)(1) Except to the extent provided in paragraph (2) and subsection (f), a cable operator may not provide cable service without a franchise.

(2) Paragraph (1) shall not require any person lawfully providing cable service without a franchise on July 1, 1984, to obtain a franchise unless the franchising authority so requires.

(3)(A) If a cable operator or affiliate thereof is engaged in the provision of telecommunications services--

(i) such cable operator or affiliate shall not be required to obtain a franchise under this title for the provision of telecommunications services; and

(ii) the provisions of this title shall not apply to such cable operator or affiliate for the provision of telecommunications services.

(B) A franchising authority may not impose any requirement under this title that has the purpose or effect of prohibiting, limiting, restricting, or conditioning the provision of a telecommunications service by a cable operator or an affiliate thereof.

(C) A franchising authority may not order a cable operator or affiliate thereof--

(i) to discontinue the provision of a telecommunications service, or

(ii) to discontinue the operation of a cable system, to the extent such cable system is used for the provision of a telecommunications service, by reason of the failure of such cable operator or affiliate thereof to obtain a franchise or franchise renewal under this title with respect to the provision of such telecommunications service.

(D) Except as otherwise permitted by Sections 611 and 612, a franchising authority may not require a cable operator to provide any telecommunications service or facilities, other than institutional networks, as a condition of the initial grant of a franchise, a franchise

EXHIBIT 3



June 9, 1997

Franklin P. Ferguson, Mayor
Curtis E. Snyder, City Administrator
City of Rice Lake
11 E Marshall St.
Rice Lake WI 54868

Dear Mayor Ferguson and Mr. Snyder:

We have received a "License Agreement for Use of City Rights-of-Way" from the City's attorney, Ms. Gallucci. Our hopes that CTC would be treated equally and fairly were dashed as we read the 13 page agreement. Instead of moderating the demands of the May 23rd letter from Mr. Snyder, the requirements have increased substantially. Before street crossing permits will be issued to place a "telephone network" in the City rights-of-way, CTC must agree to the following discriminatory requirements which have never been imposed on GTE:

The City's free usage of CTC's conduits.

A \$10,000 "administrative fee" to reimburse the City for it's costs incurred while drafting this agreement.

Abide by the yet to be developed "Telecommunications Ordinance" and any "annual" occupancy fee provisions.

Remove of all of it's network facilities (buried cable, conduit, etc.) from the City's right-of-way if the license agreement is terminated. The City may remove CTC's facility (if CTC does not) at CTC's expense.

Sale of CTC's *telecommunications network* to another telecommunications provider is subject to the City's prior written approval.

Indemnification of the City, officials, employees, agents, contractors and attorneys against any liability, claims or costs arising in any way from this agreement (Marcus or GTE litigation). This would include negligent acts by any of the City's personnel listed above.

\$50,000 of "Security for Performance" to ensure that all excavations are properly completed and that the City may "draw" on if requirements of the agreement are not met.

These are just a few of the grossly discriminatory requirements of the 13 page "License Agreement" imposed upon CTC (but not GTE) before CTC would be issued a street crossing permit to place telephone cable in the City's rights-of-way.

I have spoken several times of a June 1st deadline as a "go or no go" date for this project. At the May 27th City Council Meeting I was asked to extend this deadline because the City "welcomed competition" and desired a solution. As asked, I extended the deadline to evaluate the City's written response.

Upon review of the License Agreement it is clear that while the City speaks of "welcoming competition," the reverse is true. The effort put forth by City officials to keep CTC from offering service in the City of Rice Lake is quite extensive, and unfortunately for Rice Lake's citizens, very effective.

Due to the City's continued efforts to block CTC's entry into the Rice Lake telecommunications market, CTC has no alternative but to cancel it's current plans to provide Cable TV and Telephone service to the citizens of Rice Lake.

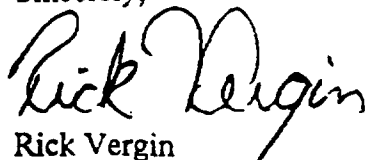
1997 construction funds destined for the City of Rice Lake will be diverted to the City of Barron. Build out of the Barron system will commence within the month and should be completed this year.

In addition, CTC will file a "Preemption Petition" with the Federal Communications Commission (FCC) to obtain a determination and preemption of the requirements being placed solely on CTC, in the provision of *telecommunications service*, by the City of Rice Lake.

Notwithstanding these changes in plans, CTC may still be interested in providing telephone service to the citizens of Rice Lake in following years, if allowed to enter the telecommunications market in a non-discriminatory manner. CTC will evaluate the political climate, any Rice Lake "Telecommunications Ordinance" and customer feedback to make a determination at that time.

If you have any question please call me at (715) 837-1011.

Sincerely,



Rick Vergin
General Manager/Executive Vice President
CTC Telcom,
Chibardun Telephone Cooperative, Inc.

cc: Members of Rice Lake City Council

EXHIBIT 4

City of Rice Lake

Rice Lake, Wisconsin 54868

November 13, 1997

OFFICE OF:
City Administrator



Direct line: 715-234-3454
Main Office: 715-234-7088
Fax: 715-234-6829

Mr. Pat Anderson
Marcus Cable
1725 South Main
Rice Lake, WI 54868

Re: Excavation Permits

Dear Mr. Anderson:

On November 11, the City of Rice Lake Common Council met and reviewed the pending applications of Marcus Cable for excavation permits for upgrading Marcus' cable system. Pursuant to City Ordinance No. 849, the Common Council approved the permits subject to Marcus Cable entering into an agreement with the City that establishes conditions for Marcus' construction and occupancy of City rights-of-way.

Enclosed is a draft Agreement of Conditions to Excavation Permits that the City proposes. The terms and conditions of the draft Agreement are substantially identical to those that the City had proposed to Chibardun Telephone Cooperative when it applied to make significant excavations in Rice Lake earlier this year.

We would be glad to discuss the proposed Agreement after Marcus Cable has had the opportunity to review it. Please feel free to call me if you have any questions.

Sincerely,
CITY OF RICE LAKE

Curtis E. Snyder,
City Administrator

cc: Mayor/Common Council, City of Rice Lake
Mr. Mic Givens, Cable Director
Mr. Gary Neuman, Street Services Director
Ms. Anita Gallucci, Special Legal Counsel, BSC&F
Mr. Dan Rodamaker, Rice Lake Utilities GM/CEO

AGREEMENT OF CONDITIONS TO EXCAVATION PERMITS

This Agreement is entered into between the City of Rice Lake, Wisconsin (City) and Marcus Cable Partners, L.P., (Permitee) a _____ limited partnership.

RECITALS

A. Permitee desires to make extensions to, and upgrade, maintain and operate, its Cable Television System within City Rights-of-Way.

B. Pursuant to its authority to manage local Rights-of-Way, City is considering the development and adoption of a comprehensive ordinance ("Rights-of-Way Ordinance"), which will regulate the use of City Rights-of-Way by all utilities, Cable Television System operators and other persons and which may contain a requirement for payment of an annual fee to reasonably compensate City for use of the Rights-of-Way.

C. The City intends that the Rights-of-Way Ordinance shall, when adopted, apply to Permitee and desires to enter into an interim agreement, pursuant to the City's Ordinance No. 849, setting forth the terms and conditions for Permitee's use of the Rights-of-Way until such time as the Rights-of-Way Ordinance becomes effective.

AGREEMENT

NOW, THEREFORE, CITY AND PERMITEE AGREE AS FOLLOWS:

1. Recitals. The Recitals are incorporated and form part of this Agreement.
2. Definitions. For the purpose of this Agreement, and except as defined specifically below, the terms, phrases, words and their derivations herein used shall be given their common and ordinary meaning.
 - a. "Cable Television System" or "Cable System" shall mean any facility owned by a cable television operator consisting of a set of closed transmission paths and associated signal generation, reception and control equipment that is designed to provide cable service that includes video programming and which is provided to multiple subscribers within the City.
 - b. "City" shall mean the City of Rice Lake, Wisconsin, a Wisconsin municipal corporation.
 - c. "Permitee" shall mean Marcus Cable Partners, L.P., a _____ limited partnership.
 - d. "Line" shall mean any cables, wires, lines, towers, wave guides, optical fibers or other fiber optic cable, laser equipment, and any associated equipment or facilities designed and constructed for the purpose of producing, receiving, amplifying, transmitting and/or distributing audio, video, data and other forms of electronic signals or light waves to and from Persons or locations within the City.
 - e. "Person" shall mean any corporation, company, association, firm, partnership, limited

liability company, limited liability partnership, other business entity, or individual.

- f. "Rights-of-Way" shall mean the surface and space above and below any public street, highway, sidewalk, terrace, or alley.

3. **Purpose.** The purpose of this Agreement is to provide for the health, safety and well-being of the residents of City as they use City's Rights-of-Way, as well as to ensure the structural integrity of City Rights-of-Way. City desires to minimize the number of obstructions and excavations taking place thereon and to regulate the placement of facilities within the Rights-of-Way to ensure that the Rights-of-Way remain available for public services.

4. **Subject to Other Requirements.**

- a. Permittee's right to construct, maintain and operate its Cable System is subject to the terms, conditions, and requirements of the City of Rice Lake General Ordinances and this Agreement. Permittee shall not commence any construction relating to its Cable System until Permittee first obtains an excavation permit from the Superintendent of Streets and satisfies the requirements of Section 6-2-3 of the City's General Ordinances and Ordinance No. 849.
- b. **Existing and Future Facilities.** Permittee expressly acknowledges and agrees that its existing Lines and other appurtenances in the Rights-of-Way and those which are subsequently acquired or installed by the Permittee shall be subject to the provisions of this Agreement and all permits related thereto.

5. **Limitation on Authority.**

- a. **Privileges Must be Specific.** No privilege or exemption is granted or conferred by this Agreement except as is specifically prescribed.
- b. **No Right of Property.** Any privilege claimed under this Agreement in any City Right-of-Way shall be subordinate to any prior lawful occupancy or any subsequent legal exercise of City police power. Neither this Agreement nor any excavation permit shall impart to Permittee any fee title property rights in or on any public or private property to which such Permittee does not otherwise have title.

6. **Term.** This Agreement shall commence on its effective date, as set forth in Section 26, and shall continue until the City has adopted the Rights-of-Way Ordinance which shall govern the use of its Rights-of-Way and establish the terms and conditions, including the monetary terms and conditions, for use of City Rights-of-Way. Upon the adoption of such an ordinance, this Agreement shall terminate.

7. **Registration Requirements.** Before Permittee begins any construction in the City's Rights-of-Way relating to Permittee's Cable System, Permittee shall register and submit to the City Superintendent

of Streets the following information:

- a. A construction plan which shall include, but not be limited to, the following information:
 - i. The specific locations and the beginning and ending dates of all construction projects planned to be commenced during the calendar year.
 - ii. The tentative locations and beginning and ending dates for all construction projects contemplated for the next three (3) following calendar years.
- b. A list of all independent contractors, if any, to be employed by the Permittee to work on the construction and a statement as to the nature of such work.
- c. Evidence of Diggers Hot Line registration, Permittee's address and e-mail address, if applicable, and telephone and facsimile numbers.
- d. The name, address and e-mail address, if applicable, and telephone and facsimile numbers of a local representative. The local representative shall be available at all times. Current information regarding how to contact the local representative in an emergency shall be provided at the time of registration.

8. Reporting Requirements.

- a. Operations. Permittee shall promptly notify the City of any changes in Permittee's construction plan under Section 7.a.
- b. "As-Built Drawings." Permittee shall submit updated drawings within 60 days of any modifications or extensions to the Cable System.
- c. Reports and Records. By March 31 of each year, Permittee shall file an annual report for the prior calendar year with the City Clerk, which shall include the following information:
 - (i) A current list of all Permittee's officers and directors or partners, if any, including addresses and telephone numbers.
 - (ii) The names and both business and residential addresses and phone numbers of the Cable System resident manager and engineer.
 - (iii) Copies of all rules, regulations, policies and procedures promulgated by the Permittee relating to the requirements of this Agreement.

9. Location of Equipment.